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Paper No. 13

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OFFICE OF PETITIONS

In re Application of	:	DECISION DISMISSING
Zeng	:	PETITION UNDER 37 CFR
Application No. 09/551,187	:	1.137(b) AS MOOT
Filed: April 17, 2000	:	&
Attorney Docket No.: SE1443PDA50021A	:	DECISION GRANTING
//90065.161501/17732.6134.003	:	PETITION UNDER
For: SEMICONDUCTOR DEVICE HAVING	:	37 CFR 1.181
REDUCED EFFECTIVE SUBSTRATE	:	
RESISTIVITY AND ASSOCIATED METHODS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2002, to revive the above-identified application. The petition is properly treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on May 9, 2001. A Notice of Abandonment was mailed on December 19, 2001.

A review of the application file reveals that petitioner filed an amendment and a 4 month extension of time and required fee on January 4, 2002. Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The amendment and the extension of time bear proper certificates of mailing, dated December 10, 2001, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. The papers submitted on January 4, 2002 should have been considered as if they were filed on December 10, 2001. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition under 37 CFR 1.181 is **GRANTED**.

Therefore, the petition to revive is unnecessary. The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**. The \$1,280.00 petition fee, the \$740.00 RCE filing fee, and the

\$90.00 submitted for filing claims in excess of 20 will be refunded to deposit account no. 10-0223.

For future reference, petitioner is reminded that an RCE removes the finality of a final Office action. In this instance, a final Office action has not been mailed. Therefore, an RCE would not have been an appropriate reply had the application been abandoned.

The attorney submitting the instant petition has not been empowered to prosecute the instant application. A power of attorney, filed February 27, 2002, and a change of address, filed May 2, 2002, will not be entered and made of record because it is unclear as to who the signer of the power of attorney, Stephen Schott, is in relation to the invention. Because the power of attorney has not been recognized, the change of correspondence address signed by Attorney FitzGerald cannot be recognized.

A representative of the assignee may intervene and empower an attorney. See MPEP 324. If petitioner/ assignee of record desires the attorney who submitted the instant petition to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to attorney who filed the instant petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application file will be forwarded to the Technology Center 2800's technical support staff for entry of the amendment filed January 4, 2002 (certificate of mailing date December 10, 2001) and entry of the supplemental amendment filed February 27, 2002. Thereafter, the application file will be forwarded to the examiner for action in due course.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.


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